

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BELINDA F. NORWOOD, )  
Plaintiff(s), ) Case No. 2:17-cv-00483-MMD-NJK  
v. )  
MEDSOURCE MANAGEMENT GROUP, LLC, ) ORDER  
Defendant(s). )

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Pursuant to 28 U.S.C. § 1915, the Court screened Plaintiff's complaint on February 17, 2017. Docket No. 3. The Court found that Plaintiff failed to state a claim and failed to allege that she had exhausted her administrative remedies. Docket No. 3. To the extent she could cure those deficiencies, the Court ordered Plaintiff to file an amended complaint by March 20, 2017. *Id.* Plaintiff failed to file an amended complaint by that date. As a result, the undersigned recommended that this case be dismissed without prejudice on June 23, 2017. Docket No. 5. Plaintiff has now filed an amended complaint. Docket No. 5. In light of Plaintiff's filing that amended complaint, the undersigned **WITHDRAWS** the report and recommendation. Nonetheless, the Court cautions Plaintiff that she must comply with Court orders as this case moves forward, and that failing to do so may result in the imposition of sanctions, up to and including case-dispositive sanctions.

26 Turning to Plaintiff's amended complaint, the Court finds that it suffices to survive the  
27 screening process. First, Plaintiff alleges that she exhausted her administrative remedies and  
28 received a right to sue letter. *See* Docket No. 6 at ¶ 10. Second, Plaintiff has stated a claim for at

1 least FMLA interference. To state a claim for FMLA interference, a plaintiff must show “(1) he was  
2 eligible for the FMLA’s protections, (2) his employer was covered by the FMLA, (3) he was entitled  
3 to leave under the FMLA, (4) he provided notice of his intent to take leave, and (5) his employer  
4 denied him [his rightful] benefits.” *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236, 1243 (9th  
5 Cir. 2014). Plaintiff has alleged each of these elements. *See* Docket No. 6 at ¶ 15. Accordingly,  
6 Plaintiff has stated a claim for FMLA retaliation.<sup>1</sup>

7 Based on the foregoing and good cause appearing, therefore, **IT IS ORDERED** that:

8 1. The Clerk of the Court shall issue summons to Defendant and deliver the same to the  
9 U.S. Marshal for service. Plaintiff shall have twenty days in which to furnish the  
10 U.S. Marshal with the required Form USM-285. Within twenty days after receiving  
11 from the U.S. Marshal a copy of the Form USM-285, showing whether service has  
12 been accomplished, Plaintiff must file a notice with the court identifying whether  
13 Defendants were served. If Plaintiff wishes to have service again attempted on an  
14 unserved defendant, a motion must be filed identifying the unserved defendant and  
15 specifying a more detailed name and/or address for said defendant, or whether some  
16 other manner of service should be attempted. Pursuant to Rule 4(m) of the Federal  
17 Rules of Civil Procedure, service must be accomplished within 90 days from the date  
18 this order is entered.

19 Dated: July 13, 2017

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22 NANCY J. KOPPE  
United States Magistrate Judge

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27 <sup>1</sup> Because Plaintiff states a claim as to FMLA interference, the Court declines to further  
screen her amended complaint. *See, e.g., Bem v. Clark County School Dist.*, 2015 WL 300373, at  
\*3 n.1. (D. Nev. Jan. 21, 2015). Nothing herein precludes Defendant from filing a motion to dismiss  
as to any claim brought by Plaintiff. *See, e.g., id.*